

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

COMMONWEALTH OF VIRGINIA

v.

Docket No.: CR13-365-00

HERMAN CORNELIOUS SMITH III,

DEFENDANT.

PLEA AGREEMENT

This day came the Defendant, Herman Cornelious Smith III, in person, his attorney, Eric P. Korslund, Esq., and the Attorney for the Commonwealth and represented to the Court that the parties have entered into the following Plea Agreement in accordance with Rule 3A:8(C):

1. That the Defendant stands **INDICTED** or charged with the following felony offense:

- Obstruction of Justice, a class 5 felony offense under §18.2-460 [JUS-4820-F5]

2. That the Defendant agrees to plead **GUILTY** to the following **AMENDED** misdemeanor offense:

- Contempt of Court, an unclassified misdemeanor offense under §18.2-456 [CON-3282-S9]

3. That the Attorney for the Commonwealth, the Attorney for the Defendant, and the Defendant **AGREE** that the following is an appropriate **DISPOSITION**: ninety (90) days in the custody of the Norfolk Sheriff's Office, execution of the entire ninety (90) day sentence is suspended for a period of three (3) years upon the Defendant paying a fine in the amount of five hundred dollars (\$500), successfully completing seventy-five (75) hours of community service and anger management counseling through Norfolk Criminal Justice Services—Adult Community Supervision within six (6) months of the entry of this PLEA AGREEMENT, keeping the peace, being of uniform good behavior, not violating any laws of the Commonwealth, its sister states or the United States, and upon the Defendant paying all court costs.

4. That the Defendant **STIPULATES** to having committed the offense to which he enters a plea of guilty—this is not a plea of *nolo contendere* nor a plea entered pursuant to North Carolina v. Alford, 400 U.S. 25 (1970).

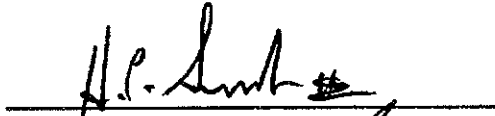
5. That the Defendant **WAIVES** any opportunity to seek sentence modification from the Court pursuant to Virginia Code §19.2-303, unless specifically agreed to by the Attorney for the Commonwealth.

6. That while on probation or under any period of good behavior, the Defendant **WAIVES** objection to the Attorney for the Commonwealth notifying the Court, *ex parte*, of any suspected violation relating to the imposed sentence in this matter, any term or special condition of his probation or bond, or to this **PLEA AGREEMENT**.

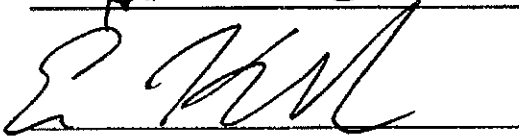
7. That this Plea Agreement is the **TOTAL AGREEMENT** between the parties and that there have been no other inducements, promises, threats or coercion of any kind imposed upon the Defendant or suggested to the Defendant by the Attorney for the Commonwealth, or any agent of the Commonwealth, and further that this Plea Agreement is in conformance with the facts and circumstances of this case.

13. That no Judge of the Circuit Court or any other Court **PARTICIPATED** in any discussion leading to this Plea Agreement.

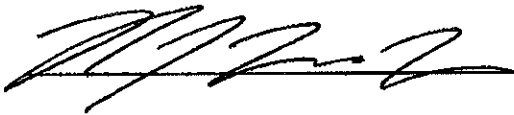
In support of said agreement, the Defendant, his or her Attorney, and the Attorney for the Commonwealth hereto affix their signatures.



Herman Cornelious Smith III
Defendant



Eric P. Korslund, Esq.
Attorney for the Defendant

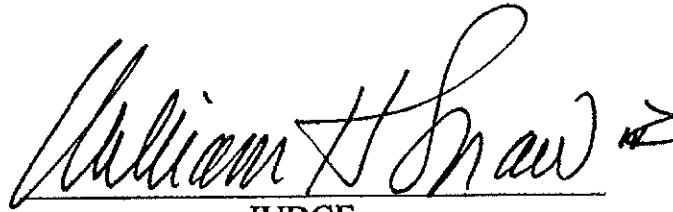


Robert J. Fierro, Jr., Special Prosecutor
Assistant Commonwealth's Attorney for
Chesterfield County

File this _____ day of _____ of _____.

Accepted this 2nd day of July of 2013.

Rejected this _____ day of _____ of _____.



JUDGE

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HERMAN CORNELIOUS SMITH III,

DEFENDANT.

STIPULATION OF FACTS

This day came the Defendant, Herman Cornelious Smith III, in person, his attorney, Eric P. Korslund, Esq., and the Attorney for the Commonwealth and stipulate or agree that the Commonwealth would have presented the following evidence had this matter been tried:

On July 24, 2012, Herman Cornelious Smith III, as court-appointed counsel to De'vonne Hasan Karim and as an officer of the court, misbehaved in his official character. Specifically, Mr. Smith was counsel of record for De'vonne Hasan Karim, whom was one of four co-defendants scheduled for a preliminary hearing in Norfolk General District Courtroom #6 on July 24, 2012. Mr. Karim and his co-

defendants were charged with several offenses including Robbery, Use of Firearm in the Commission of Robbery, and other related violent felony matters. Each co-defendant was represented by a different attorney.

During the joint preliminary hearing conducted for Mr. Karim and a second of the four co-defendants, attorney Smith learned that one of the other co-defendants, Antonio Lamont Burke, would be testifying against his client and that Mr. Burke had in fact already reached a plea agreement with the Norfolk Commonwealth's Attorney's Office regarding the future resolution and disposition of Mr. Burke's charges.

The Commonwealth was represented by Senior Assistant Commonwealth's Attorney Lyn S. Simmons on this day in these proceedings. At the conclusion of the joint preliminary hearing for Mr. Karim, prosecutor Simmons exited the courtroom along with Antonio Valentino Rone. Mr. Rone was a former client of attorney Smith and was from the same Young's Park neighborhood in Norfolk as Mr. Burke. Though present for part of the joint preliminary hearing, Mr. Rone was not a participant or otherwise involved the material proceedings of that day.

As prosecutor Simmons and Mr. Rone conversed, attorney Smith exited the courtroom and remained in the hallway of the courthouse adjacent to Norfolk General District Courtroom #6. At this point, attorney Smith turned to Mr. Rone, whom was standing at some distance from attorney Smith, and yelled loudly—

Yeah, he from Young's Park, go out there tonight and tell everybody he a snitch. He a snitch, go out there and tell everybody he a snitch. He probably gon[na] have to do three years but he gon[na] have to come back. Let everybody in Young's Park know he a snitch.

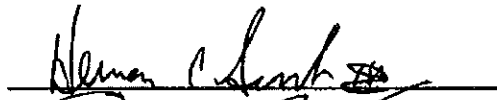
This statement was audible at a distance of 20-25 feet from attorney Smith and heard by other individuals standing in this public hallway.

Mr. Smith continued to rant as he made his way to the courthouse elevators. Though Mr. Rone and prosecutor Simmons took the stairs and later exited the building, they again encountered attorney Smith in an outdoor plaza adjacent to the building. Now situated across the plaza from Mr. Rone and prosecutor Simmons, attorney Smith resumed shouting comments at Mr. Rone.

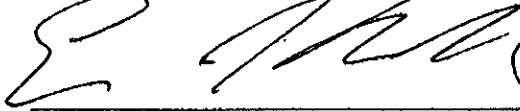
In a later interview with investigators with the Norfolk Police Department regarding this event, Mr. Rone advised that attorney Smith also stated during these encounters that if Mr. Rone did not tell everyone in Young's Park that Mr. Burke was a snitch and that Mr. Burke would be back in the neighborhood in three years, that attorney Smith would then tell everyone that Mr. Rone was also a "snitch" and that Mr. Rone was "working" for law enforcement as well.

These events occurred in the City of Norfolk.

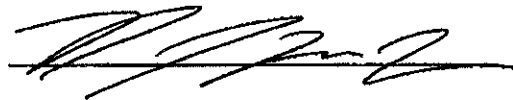
In support of said stipulation or agreement, the Defendant, his Attorney, and the Attorney for the Commonwealth hereto affix their signatures.



Herman Cornelious Smith III
Defendant



Eric P. Korslund, Esq.
Attorney for the Defendant



Robert J. Fierro, Jr., Special Prosecutor
Assistant Commonwealth's Attorney for
Chesterfield County

File this 2 day of JULY of 2013.